

No. 00-3885EM

[Not To Be Published]

Submitted: April 2, 2001

Filed: May 18, 2001

Before MORRIS SHEPPARD ARNOLD, RICHARD S. ARNOLD, and FAGG,
Circuit Judges.

PER CURIAM.

Lorne Wray, who was committed to the St. Louis Psychiatric Rehabilitation Center after his plea of not guilty to charged criminal conduct by reason of insanity, appeals the District Court's¹ 28 U.S.C. § 1915(e)(2)(B) dismissal of his 42 U.S.C. § 1983 complaint. The District Court did not err. Wray failed to state a section 1983 claim against any of the defendants, and he cannot attack the fact or duration of his confinement in a section 1983 complaint. His remedy, in the first instance, must be to apply to a state court for release under Mo. Rev. Stat. § 552.040(5). See Kolocotronis v. Holcomb, 925 F.2d 278 (8th Cir. 1991).

Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The Honorable Rodney W. Sippel, United States District Judge for the Eastern District of Missouri.